

AMENDED IN SENATE MAY 28, 2002

AMENDED IN SENATE MAY 7, 2002

SENATE BILL

No. 1406

Introduced by Senator Kuehl

February 13, 2002

An act to ~~amend Sections 3176, 3183, and 3184 of~~ *add Section 3188* to the Family Code, relating to mediation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, as amended, Kuehl. Mediation proceedings.

Existing law governs mediation proceedings for child custody and visitation issues, including the notice of mediation. These provisions also authorize a mediator to make specified recommendations to a court regarding custody investigations and protective orders if the parties have not reached agreement as a result of the mediation proceedings. Existing law also authorizes a mediator to submit a recommendation to the court regarding the custody of or visitation with the child. Existing law provides that these provisions do not prohibit a mediator from recommending to the court that counsel be appointed to represent a minor child. *In making this recommendation, however, the mediator is required to inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.*

This bill would *enact alternative provisions that would become operative only upon the appropriation of funds in the annual Budget Act, as specified, that would* require the notice of mediation to state that all proceedings involving the mediator and the disputing parties shall be kept confidential between the mediator and the disputing parties and that the mediator may not make a recommendation to anyone other than

the disputing parties, except as specified. ~~The bill would delete the provision authorizing a mediator to make recommendations to the court regarding custody or visitation and revise the provision authorizing a mediator to recommend the appointment of counsel to represent a minor child. The bill~~ *These alternative provisions would also authorize a mediator to report to the court whether total or partial agreement is reached in mediation. The alternative provisions would also provide that the mediator is not required to inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed when making that recommendation to the court.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3176 of the Family Code is amended to~~
2 *SECTION 1. Section 3188 is added to the Family Code, to*
3 *read:*
4 *3188. (a) Notwithstanding subdivision (b) of Section 3176,*
5 *or Section 3183 or 3184, all of the following shall apply:*
6 *(1) The notice of mediation shall state that all proceedings*
7 *involving the mediator and the disputing parties shall be kept*
8 *confidential between the mediator and the disputing parties, and*
9 *that the mediator may not make a recommendation to anyone other*
10 *than the disputing parties, except as otherwise provided in this*
11 *section.*
12 *(2) If total or partial agreement is reached in mediation, the*
13 *mediator may report this fact to the court.*
14 *(3) In making the recommendation described in Section 3184,*
15 *the mediator is not required to inform the court of the reasons why*
16 *it would be in the best interest of the minor child to have counsel*
17 *appointed.*
18 *(b) This section shall become operative upon the appropriation*
19 *of sufficient funds in the annual Budget Act to implement this*
20 *section.*
21 *read:*
22 ~~3176. (a) Notice of mediation and of any hearing to be held~~
23 ~~pursuant to this chapter shall be given to the following persons:~~
24 ~~(1) If mediation is required to settle a contested issue of custody~~
25 ~~or visitation, to each party and to each party's counsel of record.~~

1 ~~(2) If a stepparent or grandparent seeks visitation rights, to the~~
2 ~~stepparent or grandparent seeking visitation rights, to each parent~~
3 ~~of the child, and to each parent's counsel of record.~~

4 ~~(b) The notice of mediation shall state that all proceedings~~
5 ~~involving the mediator and the disputing parties shall be kept~~
6 ~~confidential between the mediator and the disputing parties, and~~
7 ~~that the mediator may not make a recommendation to anyone other~~
8 ~~than the disputing parties, except as provided in Section 3183 or~~
9 ~~3184.~~

10 ~~(c) Notice shall be given by certified mail, return receipt~~
11 ~~requested, postage prepaid, to the last known address.~~

12 ~~SEC. 2.—Section 3183 of the Family Code is amended to read:~~

13 ~~3183.—(a) If total or partial agreement is reached in mediation,~~
14 ~~the mediator may report this fact to the court.~~

15 ~~(b) If the parties have not reached agreement as a result of the~~
16 ~~mediation proceedings, the mediator may recommend to the court~~
17 ~~that an investigation be conducted pursuant to Chapter 6~~
18 ~~(commencing with Section 3110) or that other services be offered~~
19 ~~to assist the parties to effect a resolution of the controversy before~~
20 ~~a hearing on the issues.~~

21 ~~(c) In appropriate cases, the mediator may recommend that~~
22 ~~restraining orders be issued, pending determination of the~~
23 ~~controversy, to protect the well-being of the child involved in the~~
24 ~~controversy.~~

25 ~~SEC. 3.—Section 3184 of the Family Code is amended to read:~~

26 ~~3184.—Nothing in this chapter prohibits the mediator from~~
27 ~~recommending to the court that counsel be appointed, pursuant to~~
28 ~~Chapter 10 (commencing with Section 3150), to represent the~~
29 ~~minor child.~~

